IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6616 of 1995

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MAFATJI SATUJI VAGHELA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6616 of 1995

MR RK MISHRA for Petitioner No. 1

MR K P RAVAL AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 07/07/2004

ORAL JUDGEMENT

1.0 The petitioner herein has preferred this petition in order to challenge the order dated 23/02/95 passed by

the respondent authority at Annexure 'A' to the petition by which the petitioner was removed from the services of the respondent Government.

2.0 The brief facts of the case are as follows;

2.1 The petitioner was appointed as a Peon by order dated 19/05/84 in the respondent Government. It is the case of the petitioner that during the entire period of service, he was discharging his duties honestly and loyally. But, due to certain family and health problems the petitioner remained absent from service on two occasions, during the period from 16/03/92 to 28/08/92 and 23/10/92 to 31/01/93. The services of the petitioner were regularized on the above two occasions.

2.2 It is also the case of the petitioner that charge sheet was issued against him on the ground of absenteeism and departmental inquiry was ordered against him. The respondents proceeded ex-parte against the petitioner and inquiry was initiated. The findings of the Inquiry Officer suggested the termination of the petitioner from service (Annexure 'D'). Accordingly, by order 23/02/95, the petitioner was removed from the service of the respondent Government.

3.0 The matter was argued at length by the learned advocate for the petitioner on 28/06/04. But it was adjourned for today at the request of Mr.Rana in order to enable him to inquire whether the petitioner was ready to make an application for fresh appointment subject to the availability of posts with the respondent Government. Today, Mr.Rana is not present even in the second call. Therefore, the matter was heard on merits.

4.0 Mr.K P Raval learned AGP for the respondent authority has submitted that during the departmental proceedings the petitioner had not cooperated with the said inquiry. The findings of the inquiry report at Annexure D to the petition, clearly show the negligence towards duty by the petitioner. Moreover, the charges levelled against the petitioner were also proved. Thus, in spite of giving several opportunities / warnings to the petitioner for improving his behaviour and conduct, the petitioner had failed to perform his duties efficiently. Mr.Raval has further submitted that the petitioner had proceeded on leave unauthorisedly. This shows the negligence of the petitioner towards his duties.

5.0 Having considered the averments made in the

petition as also the arguments advanced by the learned counsel for the parties, I am of the opinion that no illegality has been committed by the respondent authority by removing the petitioner from service. The petitioner was given several opportunities / warnings for improving his behaviour and conduct, but, despite all the opportunities / warnings, he did not improve his behaviour and conduct. Therefore, I find no illegality in the order passed by the respondent authority. Moreover, the departmental inquiry which was conducted against him, recorded adverse findings against the petitioner.

6.0 For the foregoing reasons, this petition is dismissed. The impugned order dated 23/02/95 passed by the respondent authority at Annexure 'A' to the petition is confirmed. Rule is discharged with no orders as to costs.

(K. S. Jhaveri, J.)

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